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IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

CAMERON ANDERSON,

Plaintiff,

v.

ERIC J. HOUSTON, Deputy Sheriff,
BARRY L. HUNTINGTON, SEAN D.
REYES, Attorney General, GARFIELD
COUNTY, STATE OF UTAH,

Defendants.

**STATE DEFENDANTS'
MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT**

Case No. 2:16-cv-00924-CW-EJF

Judge Clark Waddoups
Magistrate Judge Evelyn J. Furse

Defendants Marian Decker, Sean D. Reyes, and the State of Utah (“the State Defendants”), by and through counsel, Kyle J. Kaiser, Assistant Utah Attorney General, oppose Plaintiff Cameron Anderson’s Motion for Summary Judgment ([doc. 18](#)).

In this case, Plaintiff Anderson sued, among others,¹ Assistant Attorney General Marian Decker, Attorney General Sean Reyes, and the State of Utah for alleged injuries arising out of his prosecution for drug possession. The State Defendants moved to dismiss ([doc. 10](#)), and Magistrate Judge Furse issued a report and recommendation ([doc. 13](#)) recommending that the case be dismissed in its entirety. Mr. Anderson has objected to the dismissal ([doc. 17](#)), and the Report and Recommendations is ripe for review by the district court.

Simultaneously with his objections, Mr. Anderson also filed a “Motion for Summary [Judgment]” arguing that “all facts have been outlined in the case to date” and that summary judgment should be granted “in order to alleviate anymore undue travel expenses to Utah and help facilitate resolution of the dispute in a timely manner.” (Pl.’s Mot. Summ. J. ([doc. 18](#)) at 1.) The Court should deny this motion.

¹ No summonses have been issued—or returned—serving any defendants with process. *See* Docket. The State Defendants waived formal presentation of a summons. State Defs.’ Mot. to Dismiss ([doc. 10](#)) at ii n.1.

Summary judgment is improper at this stage of the litigation, where a magistrate judge has issued a recommendation recommending that the case be dismissed. His request is inappropriate, and when the District Court acts on the Report and Recommendation, it may deny this motion as moot.

Furthermore, the motion is procedurally flawed. Mr. Anderson has not submitted any evidence supporting his motion. On a motion for summary judgment, the *moving party* has the burden to put forth *evidence* to show the absence of a genuine issue of material fact and that the party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c)(1). In this district, a movant must provide a memorandum identifying the relief sought, providing a statement of undisputed material facts supported by evidence, and provide an explanation of why, under the applicable legal principles the moving party is entitled to judgment as a matter of law. DUCivR 56-1(b). Mr Anderson has not done any of these things.

Finally, the motion fails substantively. For the reasons stated in the State Defendants' Motion for Summary Judgment, and in the Magistrate Judges' Report and Recommendation, which are incorporated herein, Mr. Andersons complaint fails to state a plausible claim on their substance. He is not entitled to summary judgment on claims that do not even make it past a motion to dismiss.

Accordingly, the State Defendants respectfully request that the Court deny, or deny as moot, Plaintiff's Motion for Summary Judgment.

DATED: May 9, 2018.

OFFICE OF THE UTAH ATTORNEY GENERAL

/s/ Kyle J. Kaiser

KYLE J. KAISER

Assistant Utah Attorney General

*Attorneys for Sean Reyes, Marian Decker, and
State of Utah*

CERTIFICATE OF MAILING

I certify that on May 9, 2018, I electronically filed the foregoing, **STATE DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**, using the Court's CM/ECF system. I also certify that a true and correct copy of the foregoing was placed in outgoing, United States mail, postage prepaid, to the following:

Cameron Anderson
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Pro Se

/s/Shykell Ledford